

Notice of Allowability

Application No.

09/819,159

Examiner

Ella Colbert

Applicant(s)

VANDE POL, MARK E.

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 18 October 2007.
2. ☒ The allowed claim(s) is/are 4.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 1/22/08.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

1. Claim 4 is pending and claims 2 and 3 have been cancelled and claim 4 is a new claim in the communication filed 10/18/07 entered as Response After Non-Final Action, substitute specification, and drawings.
2. The objection to the specification has been overcome by Applicant's submission of a substitute specification and is hereby withdrawn.
3. The drawing objection has been overcome by Applicant's amendment and submission of new drawings and is hereby withdrawn.
4. The claim objection for claim 3 is considered moot since the claim was cancelled.
5. The 35 USC 112, second paragraph rejection is considered moot since claim 3 was cancelled.

Examiner's Amendment

6. Authorization for this examiner's amendment was given in a telephone interview with Mr. Mark E. Vande Pol on January 17, 2008.

The Examiner's amendment appears here below.

Claim 4. (Currently Amended) A method for developing a natural process asset management method as a risk-reduction service, means to produce a performing asset or assets capable of offsetting the destructive use of an asset or assets performing a similar service elsewhere, a source of certified data by which to quantify risk, or a method to be licensed by which to market a product or service, certified and warranted to meet performance specifications to a prospective second party: a customer or

customers in the free market, the steps comprising of:

- (a) developing an experimental process for improving the condition of a natural process asset that deviates from an accepted standard process, meeting conformance specifications to deliver performance expectations, performed by a first party, the property owner or his agents;
- (b) contracting for verification of the experiment and preparation of data collection performed by the first party with one or more persons constituting a third party, a certifying entity;
- (c) contracting for indemnity covering consequential damages due to said experiment only, not including hazards of pre-existing conditions, performed by the first party with a fourth party: one or more persons constituting the insurance function;
- (d) indemnifying said third party, certifying entity, for risk of failing to perform step (b) performed by a party of the insurance function;
- (e) conducting said experimental process performed by said property owner;
- (f) validating accuracy of data from said experimental process performed by said property owner;
- (g) validating that said experimental process was conducted according to said conformance specifications performed by said property owner;
- (h) characterizing the performance of the asset with a mathematical model or other quantitative process description thus completing a performance specification with known tolerances or limits, performed by said property owner;

- (i) verifying and certifying said data were properly validated, said experimental process was conducted according to said conformance specifications, that said quantitative process description is accurate, and that said experimental process achieved the expectations of said performance specifications within specified tolerances, performed by said certifying function;
- (j) determining a financial cost of said experimental process for restoring said natural process asset, performed by said property owner;
- (k) estimating extent and probability of damage to man-made assets and/or natural process assets resulting from a loss of said natural process assets, performed by said insurance function;
- (1) using said financial costs of steps (j) and (k) to re-evaluate existing indemnities resulting from to failure to restore said natural process asset successfully, performed by said insurance function;
- (m) defining a description of the functional boundary of each process unit, performed by said property owner;
- (n) combining functional units into a scale and/or configuration sufficient to constitute an economically viable product or service, performed by said property owner or owners.

Allowable Subject Matter

7. Claim 4 is allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art is a non-patent reference by Paul Shivastava, The Academy of Management

Review; January 1995, Vol. 1, Pages 118-134. Shivastava discloses an ecocentric management paradigm and the implications of organizational research and practice, but fails to disclose the development of an experimental process for improving the condition of a natural process that deviates from an accepted standard process, contracting for verification of the experiment and preparation of data collection, contracting for indemnity covering the consequential damages due to the experiment and preparation of data collection, conducting the experimental process performed by a property owner, validating the accuracy of the data from the experimental process, characterizing the performance of an asset with a mathematical model, verifying and certifying the data were properly validated, determining a financial cost of the experimental process for restoring the natural process asset, estimating the extent and the probability of damage to the man-made assets, using the financial costs, defining a description of the functional boundary of each process unit, and combining functional units into a scale or configuration sufficient to constitute an economically viable product or service.

For these reasons claim 4 is deemed to be allowable over the prior art of record.

It appears that the instant invention is beyond the skill of one of ordinary skill in the art. Accordingly the invention would NOT have been obvious because one of ordinary skill could not have been expected to achieve it, NOR would they have been able to predict the results, and as such, they would have had no capability of expecting success.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. Other prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Smith, Jr., Fred L.; "A Free-Market Environmental Program".

Erickson (2002/0188459) disclosed a resource conservation method.

Inquiries

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Wednesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


ELLA COLBERT
PRIMARY EXAMINER

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 22, 2008